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*Attorneys for Plaintiffs Capana Swiss Advisors AG and
AmeriMark Automotive AG, and Third-Party Defendants
Shaen Bernhardt, Martin Fasser Heeg, and Stefan Kammerlander*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

CAPANA SWISS ADVISORS AG, a Swiss
corporation; AMERIMARK AUTOMOTIVE
AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation;
NICHOLAS THAYNE MARKOSIAN, an
individual; JOHN KIRKLAND, an individual;
and VICKY SMALL, an individual,

Defendants.

**DECLARATION OF SARAH E.
DIAMOND IN SUPPORT OF
PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE OF GERMAN
COMPANY REGISTER AND PRESS
RELEASE IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO
DISQUALIFY COUNSEL**

Civil Case No. 2:23-cv-00467
Judge: Hon. Ted Stewart
Magistrate Judge: Hon. Cecilia M. Romero

DECLARATION OF SARAH E. DIAMOND

I, Sarah E. Diamond, declare as follows:

1. I am an attorney in the law firm of Venable, LLP, and I am admitted *pro hac vice* in this Court. I am among the counsel of record for Plaintiffs Capana Swiss Advisors, AG (“Capana”), and AmeriMark Automotive AG (“Automotive”), and Third-Party Defendants Shaen Bernhardt, Martin Fasser Heeg, Stefan Kammerlander, and AmeriMark Group AG (“AM Group”) (collectively, “Plaintiffs”) in the above-referenced litigation. This declaration is submitted in support of Plaintiffs’ Request for Judicial Notice of German Company register and Press Release in Support of Plaintiffs’ Opposition to Defendants’ Motion to Disqualify Counsel. I have personal knowledge of the facts set forth in this declaration. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of Philomaxcap AG’s (“Philomaxcap”) Official Company Register, published to the German Company Register at <https://www.unternehmensregister.de/> on June 30, 2024, and retrieved January 14, 2025, and a certified translation of the same.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Philomaxcap's Official Press Release, published to Factiva, a publication of Dow Jones, capturing a press release published to Presstext, a German news publication, at <https://www.presstext.com/news/philomaxcap-ag-erhoeht-grundkapital-auf-17-millionen-euro.html> on February 23, 2024, and retrieved on January 14, 2025, and a certified translation of the same.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 16th day of January, 2025.

/s/ Sarah Diamond
Sarah Diamond

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2025, I filed the foregoing with the Clerk of Court using the Court's CM/ECF filing system and which sent electronic notification of the filing to counsel of record in this matter.

/s/ Hannah Ector
Hannah Ector